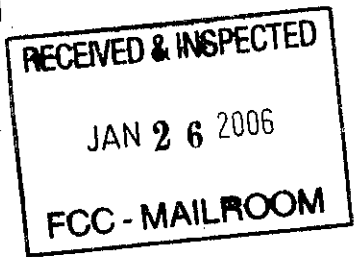


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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554



In the Matter of)
Implementation of Section 621(a)(1) of)
the Cable Communications Policy Act of 1984)
as amended by the Cable Television Consumer)
Protection and Competition Act of 1992)

MB Docket No. 05-311

COMMENTS OF THE CITY OF MURFREESBORO TENNESSEE

These Comments are filed by the City of Murfreesboro Tennessee in support of the comments filed by the National Association of Telecommunications Officers and Advisors ("NATOA"). Like NATOA, the City of Murfreesboro Tennessee believes that local governments can issue an appropriate local franchise for new entrants into the video services field on a timely basis, just as they have for established cable services providers. In support of this belief, we wish to inform the Commission about the facts of video franchising in our community.

Cable Franchising in Our Community

Community Information

The City of Murfreesboro Tennessee has a population of 81,393. Our franchised cable provider is Comcast. Our community has negotiated cable franchises since July 12, 1973.

Our Current Franchise

Our current franchise began on June 1, 2003 and expires in 15 years. Under the statutory timeline laid out in the Federal Cable Act, the cable operator has a 6-month window beginning 36 months before the expiration of the franchise in which to request a renewal under the Federal Act. As a result, at this time we are not currently negotiating a franchise renewal with the incumbent provider.

Our franchise requires the cable operator to pay a franchise fee to the City in the amount of 5% of the cable operator's revenues on a quarterly basis. The revenues for franchise fee purposes are calculated based on the gross revenues of the operator, in accordance with the Federal Cable Act.

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List A B C D E

We require the cable operator to provide the following capacity for public, educational, and/or governmental ("PEG") access channels on the cable system. We currently have 3 channels (or capacity) devoted to educational access; and 1 channel (or capacity) devoted to government access.

Our franchise requires that our PEG channels be supported in the following ways by the cable operator:

- \$375,000 Government Access Equipment Grant on the Effective Date of the Franchise.
- Additional \$375,000 Government Access Equipment Grant due within first 6 months of new franchise.
- Additional \$100,000 Government Access Equipment Grant anytime between years 5 – 10 if City Council requests it.

Our franchise contains the following institutional network ("I-Net") requirements: Comcast shall construct at no cost to the City an Institutional Network and shall commence no later than August 1, 2003 and be completed no later than 18 months after the commencement of construction. The I-Net will include at least 6 fibers connecting and providing a drop/demarcation point to a minimum of 41 institutions and 16 schools. Comcast is responsible for maintaining the I-Net fiber only at no cost to the City.

We use our I-Net facilities in the following ways:

- Sharing data between buildings
- Connecting to the web
- Interconnection with the Government Access channel for video and audio uses
- Teleconference uses for Schools

Our franchise contains the following requirements regarding emergency alerts: The Franchisee shall install and thereafter maintain for use by the City an Emergency Alert System ("EAS") that complies with 47 C.F.R. Part 11, provided that City's override capability in existence as of the Effective Date shall continue. These emergency alert requirements provide an important avenue of communication with our residents in the event of an emergency whether it is a local, state, or federal alert.

Our franchise contains the following customer service obligations, by which we are able to help ensure that the cable operator is treating our residents in accordance with federal standards and the terms it agreed to in its franchise.

- Standard Installations. Except as federal rate regulations or a Franchise Agreement may otherwise permit, a Franchisee shall not assess a Subscriber any cost other than a standard Installation charge for service drops of 125 feet or less from a Franchisee's existing distribution plant, for a single outlet, unless the Franchisee demonstrates to the City's satisfaction that extraordinary circumstances justify a higher charge.

- **Non-Standard Installations.** Except as applicable law or a Franchise Agreement may otherwise require, where a drop exceeds 125 feet in length from a Franchisee's existing distribution plant, a Franchisee may charge a Subscriber for Franchisee's actual costs associated with installing the drop beyond such 125 feet. The Subscriber's preference as to the point of entry into the residence shall be observed whenever reasonably feasible. The Franchisee shall use due care in the process of Installation and shall repair any damage to the Subscriber's property caused by said Installation. Such restoration shall be undertaken as soon as reasonably practical after the damage is incurred and shall be completed within no more than thirty (30) days after the damage is incurred.
- **Location of Drops.** In locations where the Franchisee's System must be underground, drops must be placed underground as well, unless a Franchisee or Subscriber successfully petitions the City for an exception hereto. Except as federal law may otherwise require, in any area where a Franchisee would be entitled to install a drop above-ground, the Franchisee will provide the homeowner the option to have the drop installed underground if requested, but may charge the homeowner the difference between the actual cost of the above-ground Installation and the actual cost of the underground Installation.
- **Time for Extension.** Where a Franchisee is required under the terms of its Franchise Agreement to provide service to a Person, unless otherwise provided in the Franchise Agreement it must provide such service (i) within 7 business days of an order being placed with the Franchisee if such Person resides no further than 125 feet from the Franchisee's distribution system; (ii) within ninety (90) business days if the Person resides more than 125 feet from the Franchisee's distribution system, but the distribution system need not be extended for one-quarter mile or more to provide service; and (iii) within six months if an extension of the distribution system for one-half mile or more is required.
- **Deposits.** A Franchisee may require a reasonable, non-discriminatory deposit on equipment provided to Subscribers, in addition to any allowable monthly rental fees. Any Subscriber deposit required by a Franchisee shall bear interest in accordance with applicable law or at the going rate, which shall be not less than the prime rate of the bank being used by the City for the conduct of ordinary business. Unless otherwise agreed to between a Subscriber and a Franchisee, all deposits, with interest, shall be returned to the Subscriber within sixty (60) days after the Subscriber has ceased leasing such equipment or when equipment is returned at time of disconnection of service, whichever is sooner.
- **Antennas and Antenna Switches.** A Franchisee shall adhere to FCC regulations regarding antenna switches. A Franchisee shall not, as a condition to providing Cable Service, require any Subscriber or potential Subscriber to remove any existing antenna structures for the receipt of over-the-air television signals.
- Unless otherwise provided in a Franchise, a Franchisee shall maintain an office at a geographically convenient location that shall be open at least during Normal Business Hours to allow Subscribers to request service, pay bills, and conduct other cable-related business. Each Franchisee shall perform service calls, Installations and disconnects during at least Normal Business Hours, provided that a Franchisee shall be available to respond to Outages twenty-four (24) hours a day, seven days a week.
- Each Franchisee shall establish a publicly listed, local or toll free telephone number. Trained customer service representatives shall be available to respond to customer calls at least during Normal Business Hours for the purpose of receiving requests for service,

inquiries and complaints from Subscribers; after Normal Business Hours Franchisee may answer by a service or an automated response system, including an answering machine. Inquiries received after Normal Business Hours must be responded to by a trained representative within the next business day.

- Under Normal Operating Conditions, telephone answering time shall not exceed thirty (30) seconds, and the time to transfer a call to a customer service representative (including hold time) shall not exceed an additional thirty (30) seconds. This standard shall be met at least ninety (90) percent of the time, measured quarterly. Under Normal Operating Conditions a Subscriber will receive a busy signal less than three percent (3%) of the time. Thirty (30) days after the end of each calendar quarter, a Franchisee shall upon request supply the City with statistical data to verify it has met the standards set forth herein.
- A Franchisee shall hire sufficient staff so that it can adequately respond to customer inquiries, complaints, and requests for service in its office, over the telephone, and at the Subscriber's residence.
- Scheduling and Completing Service. Under Normal Operating Conditions, each of the following standards shall be met by all Franchisees at least 90% of the time, as measured on a quarterly basis:
- All appointments for service, Installation or disconnection shall be specified by date. Each Franchisee shall specify a specific time at which the work shall be done, or offer a choice of time blocks, which shall not exceed four hours in length during Normal Business Hours. If at any time an installer or technician believes it impossible to make a scheduled appointment time, an attempt to contact the customer will be made prior to the time of the appointment and the appointment rescheduled at a time that is convenient to the customer, if rescheduling is necessary. It is a Franchisee's burden to prove it met an appointment.
- Requests for service, repair and maintenance shall be acknowledged by a trained customer service representative within twenty-four (24) hours, or prior to the end of the next business day, whichever is earlier.
- Repairs and maintenance for Outages and Service Interruptions must begin promptly, and, in any event, within twenty-four (24) hours of the time the Subscriber reports a problem to the Franchisee or its representative or the interruption or need for repairs otherwise becomes known to the Franchisee. Work on all other requests for repairs must be begun by the next business day after notification of the problem or at a later time mutually agreeable to a Franchisee and a Subscriber and reasonably timely pursued thereafter.
- A Franchisee shall not cancel a service or Installation appointment with a customer after the close of business on the business day preceding the appointment.
- A Franchisee shall keep emergency System maintenance and repair staff, capable of responding to and repairing System malfunctions or interruptions, on a twenty-four (24) hour basis.
- A Franchisee shall use reasonable best efforts to schedule maintenance on its Cable System at times that will minimize the likelihood of Service Interruptions to Subscribers. A Franchisee may intentionally interrupt service on its Cable System, except in emergency situations or, to the extent necessary to fix the affected Subscriber's service problems, after a minimum of forty-eight (48) hours' prior notice to Subscribers, the City

and public; provided, however, that planned maintenance that occurs between the hours of 12:00 midnight and 6:00 a.m. shall not require such notice to Subscribers, but shall require best efforts to notify the City no less than twenty-four (24) hours prior to the anticipated Service Interruption. Planned interruptions of service of less than thirty minutes in duration which are necessary to conduct planned maintenance shall not require notice to Subscribers or the City.

- For each period in which a Subscriber suffers an Outage or Service Interruption for more than eight (8) hours in any 24-hour period, other than a planned interruption pursuant to Section 6(e)(1), above, a Franchisee shall, upon request, credit against the Subscriber's next bill an amount equal to 1/30 of the monthly charge for any Service or Service tier affected. The charge for any per-program selection that is materially affected by an Outage or Service Interruption shall also be refunded or credited upon request.
- A Franchisee shall provide the following materials to each Subscriber at the time Cable Service is installed, at least annually thereafter, and at any time upon request. Copies of all such materials provided to Subscribers shall also be provided to the City upon request.
 - (A) a written description of products and services offered, including a schedule of rates and charges, a list of Channel positions, and a description of programming services, options, and conditions;
 - (B) a written description of the Franchisee's Installation and service maintenance policies;
 - (C) written instructions on how to use the Cable Service;
 - (D) a written description of the Franchisee's billing and complaint procedures, including requests for credits in the event of Outages or Service Interruptions.;
 - (E) the address and telephone number of the Cable Television Coordinator;
 - (F) notice regarding Subscribers' privacy rights pursuant to 47 U.S.C. § 551; and
 - (G) notice of the availability of other compatible equipment as required under 47 C.F.R. 76.1621 as applicable.
- Except as applicable federal, State and local rate regulations may provide to the contrary, a Franchisee shall provide the City and all Subscribers with at least thirty (30) days' prior notice of any significant changes in rates, programming services or Channel positions.
- Each Franchisee shall maintain a public file in accordance with FCC regulations.
- A Franchisee's billing statement shall be clear, concise, and understandable. Bills must be fully itemized with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills shall clearly delineate all activity during the billing period, including optional charges, rebates, and credits.
- Credits to Subscribers shall be issued promptly, but no later than the later of:
 - (A) the Subscriber's next billing cycle, or thirty (30) days following resolution of the billing dispute, whichever is earlier; or
 - (B) the return of all equipment supplied by the Franchisee, if Service is terminated.Credits for Service shall be issued no later than the Subscriber's next billing cycle following the determination that a credit is warranted.
- A Franchisee's first billing statement after a new Installation or service change shall be prorated as appropriate and shall reflect any security deposit.
- Fees for late payment of bills shall not be assessed until the next billing cycle after the service has been fully provided.

- If a Subscriber terminates service before the end of a prepaid period, a pro rata portion of any unpaid service fee, using the actual number of days in the month as a basis, shall be refunded to the Subscriber.
- A Franchisee shall respond to all written billing complaints from Subscribers within thirty (30) days of receipt of the complaint.
- A Subscriber may terminate service at any time.
- A Franchisee shall promptly disconnect or downgrade any Subscriber who so requests. No period of notice prior to voluntary termination or downgrade of service may be required of Subscribers by any Franchisee. So long as the Subscriber returns, or permits the Franchisee to retrieve, any equipment necessary to receive a service within five (5) business days of the disconnection, no charge may be imposed by any Franchisee for any Cable Service delivered after the date of the disconnect request. Franchisee may charge a Subscriber for any Cable Service delivered or for the cost of equipment until any outstanding equipment is returned.
- A Subscriber may be asked, but not required, to disconnect a Franchisee's equipment and return it to the business office.
- Unless otherwise agreed between Franchisee and Subscriber, any security deposit and/or other funds due a Subscriber that disconnects or downgrades Service shall be returned to the Subscriber within sixty (60) days or in the next billing cycle, whichever is earlier, from the date the disconnection or the downgrade was requested, except in cases where the Subscriber does not permit a Franchisee to recover its equipment, in which case the amounts owed shall be paid to Subscribers within sixty (60) days of the date the equipment was recovered.
- Unless otherwise agreed between Franchisee and Subscriber, if a Subscriber fails to pay a monthly Subscriber fee or other fee or charge, a Franchisee may disconnect the Subscriber's Service; however, such disconnection shall not be effected until after thirty (30) days from the due date of the monthly Subscriber fee or other charge, plus at least ten (10) days' advance written notice to the subscriber in question of intent to disconnect, given after the 30 days have elapsed. If the Subscriber pays all amounts due, including late charges, before the date scheduled for disconnection, the Franchisee shall not disconnect service. After disconnection, upon payment by the Subscriber in full of all proper fees or charges, including the payment of the reconnection charge, if any, the Franchisee shall promptly reinstate service. Notwithstanding the foregoing Franchisee may require a Subscriber to provide a deposit in the event such prior disconnection was due to a non-payment for Service.
- A Franchisee may immediately disconnect a Subscriber if the Subscriber is damaging or destroying the Franchisee's Cable System or equipment.
- A Franchisee may also disconnect a Subscriber that causes signal leakage in excess of federal limits. Disconnection may be effected after notice to the Subscriber. In addition, a Franchisee may disconnect a Subscriber without notice where signal leakage is detected originating from the Subscriber's premises in excess of federal limits, provided that the Franchisee shall immediately notify the Subscriber of the problem and, once the problem is corrected, reconnect the Subscriber.
- Except as otherwise provided herein, Franchisee shall reconnect Service to Subscribers wishing restoration of Service, provided such a Subscriber shall first satisfy any previous obligations owed and any deposit.

- Franchisee shall comply with all applicable federal or state laws regarding changes in Service. Except as federal law otherwise provides, Subscribers may not be required to pay any charge (other than regular service fees or charges), including an upgrade or downgrade charge, in order to receive the Services selected.
- No charge may be made for any Cable Service or product that a Subscriber has not affirmatively indicated it wishes to receive. Payment of the regular monthly bill does not in and of itself constitute such an affirmative indication.
- A Franchisee not subject to effective competition shall not require a Subscriber to purchase any Service other than Basic Service as a condition of purchasing premium or pay-per-view programming.
- A Franchisee shall make available, by sale or lease, to any Subscribers upon request the option of blocking the video and/or audio portion of any Channel or Channels of programming entering the Subscriber's home. The control option described herein shall be made available to all Subscribers requesting it when any Cable Service is provided, or reasonably soon thereafter.
- Every Franchisee shall maintain an office convenient to the City at a place to be determined in a Franchise Agreement, for as long as the Franchisee continues to operate a Cable System or any portion thereof in the City.
- A Franchisee shall keep such records as are necessary to show compliance with these customer service standards and FCC customer service standards.
- Within thirty (30) days of the end of each calendar quarter during the term of a Franchise, or any extension(s) thereof, upon request of the City, a Franchisee shall submit a quarterly report to the City, in a form reasonably satisfactory to the City, that shows whether the Franchisee is meeting all applicable customer service standards, including, but not limited to: telephone answering and transfer time requirements; the minimum busy signal percentage; appointment scheduling and response requirements; Subscriber notice and billing requirements; and disconnection procedures.
- No Franchisee shall engage in acts prohibited by federal or state law that have the purpose or effect of limiting competition for the provision of Cable Service or services similar to Cable Service in the City.
- The City may regulate rates for the provision of Cable Service, equipment, or any other communications service provided over the System to the extent allowed under federal or State law(s). The City reserves the right to regulate rates for any future services to the extent permitted by law.

Our franchise contains the following reasonable build schedule for the cable operator:

- The Franchisee shall build its System so that it is able to provide service to all areas located within the City limits as they existed on the Effective Date, subject to the line extension density requirement. It must build the System so that it can extend Cable Service to residents of the City, including residents located in areas which are annexed in the future, in accordance with the provisions of this Agreement, unless this requirement is waived in writing by the City.

- **Line Extension Requirements.** The Franchisee shall make Cable Service available to all Dwelling Units, within the City, including multiple Dwelling Unit buildings, whose owners or occupants request Cable Service, except for multiple Dwelling Unit buildings or other Dwelling Units to which the Franchisee cannot, after reasonable efforts, obtain legal authorization to access.
- Within the Franchise Area, including any areas annexed after the Effective Date of this Franchise, the Franchisee must extend its System upon written request to provide Cable Service to any Person at no charge other than any applicable Installation fees for the individual Subscriber's Drop, as long as the following conditions are satisfied, unless the Franchisee demonstrates to the City's satisfaction that a waiver of this requirement is justified due to extraordinary circumstances:
the potential Subscriber requesting service is located 125 feet or less from the distribution plant of Franchisee's Cable System, and
the area of the City in which the potential Subscriber resides has a density of at least twenty-five (25) Dwelling Units per mile of feeder cable, excluding Drop footage. All areas within the Franchise Area that reach the applicable density requirement at any time during the Franchise term shall be provided Cable Service upon reaching such minimum density.

In order to ensure that our residents have access to current telecommunications technologies, our franchise contains the following requirement:

- The System shall continue to have a minimum bandwidth of 750 MHz and a minimum Channel capacity of at least 110 Channels, downstream to all Subscribers.

Our Cable Ordinance contains a level playing field provision which states the following:

- A Franchise is non-exclusive and will not explicitly or implicitly preclude the issuance of other Franchises to operate Cable Systems within the City; except as may be set forth in such Franchise affect the City's right to authorize use of Public Rights-of-Way by other Persons to operate Cable Systems or for other purposes as it determines appropriate; or except as may be set forth in such Franchise, affect the City's right to itself construct, operate, or maintain a Cable System, in accordance with applicable state law.

Our franchise contains the following insurance and bonding requirements:

- No Franchise to use the Public Rights-of-Way issued to a Franchisee shall be valid or effective unless and until the City obtains assurance that the Franchisee (and those acting on its behalf) have adequate insurance. At a minimum, unless otherwise agreed to between City and a Franchisee in a Franchise Agreement, the following insurance requirements shall be satisfied by a Franchise:
(1) A Franchisee shall not commence construction or operation of a Cable System without obtaining all insurance required under a Franchise. The required

insurance shall be obtained and maintained for the entire term of a Franchise, or any extension(s) thereof. If a Franchisee, its contractors or subcontractors do not have the required insurance, then the City may order such entities to stop operations until the insurance is obtained.

- (2) Certificates of insurance, reflecting evidence of the required insurance, shall be filed with the City. For entities that are entering the market, the certificates shall be filed prior to the commencement of construction and once a year thereafter, and as provided below in the event of a lapse in coverage. For entities that have existing facilities in the Public Rights-of-Way as of the Effective Date of this Ordinance, the certificate shall be filed within sixty (60) days of the date of this Ordinance, annually thereafter, and as provided below in the event of a lapse in coverage, unless a pre-existing Franchise provides for filing of certificates in a different manner.
- (3) All insurance policies shall be issued by companies authorized to do business in the State of Tennessee. Financial ratings shall be no less than "A-1" in the latest edition of A.M. Best's Key Rating Guide, Property/Casualty Edition.
- (4) In the event that the insurance certificate provided indicates that the insurance shall terminate or lapse during the term of a Franchise, then in that event, a Franchisee shall furnish, at least thirty (30) days prior to the expiration date of such insurance, a renewed certificate of insurance as evidence that equal and like coverage will be in force for the balance of the period of the Franchise under which the Cable System operates.

The cable franchise grants the cable operator access to the public rights of way and compatible easements for the purpose of providing cable television service. Apart from the franchise, the cable provider is required to obtain a permit from the appropriate municipal office as well before it may access the public rights of way.

The franchise agreement includes a liquidated damages section as an enforcement mechanism by which we are able to ensure that the cable operator is abiding by its agreement.

The Franchising Process

Under the law, a cable franchise functions as a contract between the local government (operating as the local franchising authority) and the cable operator. Like other contracts, its terms are negotiated. Under the Federal Cable Act it is the statutory obligation of the local government to determine the community's cable-related needs and interests and to ensure that these are addressed in the franchising process – to the extent that is economically feasible. However derived (whether requested by the local government or offered by the cable operator), once the franchise is approved by both parties the provisions in the franchise agreement function as contractual obligations upon both parties.

Our current franchise provides that changes in law which affect the rights or responsibilities of either party under this franchise agreement will be treated as follows:

- In the event that federal or state laws, rules or regulations preempt a provision or limit the enforceability of a provision of this Agreement, then the provision shall be read to be preempted to the extent and for the time, but only to the extent and for the time, required by law. In the event such federal or state law, rule or regulation is subsequently repealed, rescinded, amended or otherwise changed so that the provision hereof that had been preempted is no longer preempted, such provision shall thereupon return to full force and effect, and shall thereafter be binding on the parties hereto, without the requirement of further action on the part of the City.

While a franchise is negotiated by the local government as a contract, the process provides the cable operator additional due process rights, and consequent additional obligations on the local government. For instance, our Cable Ordinance franchise process and requirements are as follows:

APPLICATIONS FOR INITIAL GRANT OR MODIFICATION OF FRANCHISE

Application Required.

A written application shall be filed with the City for the grant of an initial Franchise or modification of a Franchise Agreement pursuant to 47 U.S.C. § 545.

To be acceptable for filing, a signed original of the application shall be submitted together with twelve (12) copies. The application must be accompanied by any required application filing fee, conform to any applicable request for proposals, and contain all required information. All applications shall include the names and addresses of Persons authorized to act on behalf of all applicants with respect to the application.

All applications accepted for filing shall be made available by the City for public inspection.

Application for Grant of an Initial Franchise.

A Person may apply for an initial Franchise by submitting an application containing the information required in Section 0 to the Cable Commission. Upon receipt of such an application, the Cable Commission may either (a) evaluate the application, conducting such investigations as it deems necessary; or (b) issue a Request for Proposals ("RFP"), after conducting a proceeding to identify the future cable-related needs and interests of the community. Any such RFP shall be mailed to the Person submitting the initial application, which triggered the RFP and made available to any other interested party. The RFP may contain a proposed Franchise Agreement.

An applicant shall respond to an RFP by filing an application with the Cable Commission within the time directed by the City. The procedures, instructions, and requirements set forth in the RFP shall be followed by each applicant. Any applicant that has already filed materials need not re-file the same materials with its RFP response, but must amplify its application to include any additional or different materials required by the RFP. The Cable Commission or its designee may seek additional information from any applicant and establish deadlines for the submission of such information.

A Person may apply for an initial Franchise by submitting an unsolicited application containing the information required and requesting an evaluation of that application. Prior to evaluating that

application, the Cable Commission shall conduct, or cause to be conducted, such investigations as are necessary to determine whether the application satisfies the standards and may seek additional applications by RFP or otherwise in accordance with this Ordinance.

In evaluating an application for an initial Franchise, the Cable Commission shall consider, among other things, the following factors:

The extent to which the applicant has substantially complied with applicable law and the material terms of any existing cable franchise for the City;

Whether the quality of the applicant's proposed Service is reasonable in light of the needs and interests of the communities proposed to be served;

Whether the applicant has the financial, technical, and legal qualifications to provide Cable Service;

Whether the application satisfies the minimum requirements established by the City and is otherwise reasonable to meet the future cable-related needs and interests of the community, taking into account the cost of meeting such needs and interests;

The applicant will provide adequate Educational, and Governmental Access Channel capacity, facilities, or other support;

Whether issuance of a Franchise is warranted in the public interest considering the immediate and future effect on the Public Rights-of-Way that would be used by the Cable System, including the extent to which installation or maintenance as planned would require replacement of property or involve disruption of property, public services, or use of the Public Rights-of-Way; the effect of granting a Franchise on the ability of the applicant to meet the cable-related needs and interests of the community; and the comparative superiority or inferiority of competing applications;

What effects a grant of the application may have on competition in the delivery of Cable Service in the City;

Whether the applicant is capable of and willing to accept Franchise terms and conditions no more favorable nor less burdensome than those imposed on current Franchisee(s) and Those factors set forth in § 7-59-202 of the Tennessee Code Annotated, as same may be amended from time to time.

After evaluating a fully completed application, including all additional information requested by the City, the Cable Commission shall transmit recommendations to the City Council.

If the City Council finds that it is in the public interest to issue a Franchise considering the factors set forth, and any other relevant factors permitted by law to be considered, and subject to the applicant's entry into an appropriate Franchise Agreement, it shall issue a Franchise, after complying with any applicable public hearing requirements. If the City Council denies a request for a Franchise, it will issue a written decision explaining in reasonable detail why the Franchise was denied. Prior to deciding whether or not to issue a Franchise, the City Council shall hold at least one public hearing and implement procedures under which comments from the public on an application may be received. The City Council also may grant or deny a request for a Franchise based on its review of an application without further proceedings and may reject any application that is incomplete or fails to respond to an RFP. This Ordinance is not intended and shall not be interpreted to grant any applicant or existing Franchisee any additional standing than that which it may otherwise have under applicable law to challenge the denial of its application or the issuance of a Franchise to another.

Contents of Application.

An application or RFP for the grant of an initial Franchise shall require, and any such application shall contain, at a minimum, the following information:

Name and address of the applicant and identification of the ownership and control of the applicant, including: the names and addresses of the ten (10) largest holders of an ownership interest in the applicant and Affiliates of the applicant, and all Persons with five (5) percent or more ownership interest in the applicant and its Affiliates; the Persons who control the applicant and its Affiliates; all officers and directors of the applicant and its Affiliates; and any other business affiliation and Cable System ownership interest of each named Person.

A demonstration of the applicant's technical ability to construct and/or operate the proposed Cable System, including identification of key personnel.

A demonstration of the applicant's legal qualifications to construct and/or operate the proposed Cable System, including but not limited to a demonstration that the applicant meets the following criteria:

If the City Council has lawfully denied an applicant's previous request for an initial Franchise, that applicant may not apply for an initial Franchise again until at least three (3) years have elapsed since the date of such lawful denial.

The applicant must not have had any Franchise validly revoked by any franchising authority within three (3) years preceding the submission of the application.

The applicant must have the necessary authority under Tennessee law to operate a Cable System.

The applicant must have the necessary authority under federal law to hold the Franchise and operate a Cable System. An applicant shall have, or show that it is qualified to obtain, any necessary federal franchises, licenses or waivers required to operate the System proposed.

The applicant is willing to enter into a Franchise Agreement, to pay required fees, and to abide by the provisions of applicable law, including those related to the construction, operation or repair of its facilities, and has not entered into any agreement which would prevent the applicant from doing so.

The applicant shall not be issued a Franchise if, at any time during the ten (10) years preceding the submission of the application, the applicant was convicted of any act or omission of such character that in the sole reasonable opinion of the City, the applicant cannot be relied upon to deal truthfully with the City and the Subscribers of the Cable System, or to substantially comply with its lawful obligations under applicable law, including acts of moral turpitude, and obligations under consumer protection laws and laws prohibiting anticompetitive acts, fraud, racketeering, or other similar conduct.

The applicant shall not be issued a Franchise if it files materially misleading information in its application or intentionally withholds information that the applicant lawfully is required to provide.

The applicant shall not be issued a Franchise if an elected official of the City holds a controlling interest in the applicant or an Affiliate of the applicant.

Notwithstanding the foregoing, and to the extent permitted by law, the City shall provide an opportunity to an applicant to show that it would be inappropriate to deny it a Franchise by virtue of the particular circumstances surrounding the matter and the steps taken by the applicant to cure all harms flowing there from and prevent their recurrence, the lack of involvement of the applicant's principals, or the remoteness of the matter from the operation of the Cable Systems.

A demonstration of the financial qualifications of the applicant, including at least the following:

The applicant's proposed rate structure, including projected charges for each service tier, Installation, Converters and all other proposed equipment or services for the ensuing five years.

A certified statement prepared by a certified public accountant regarding the applicant's financial ability to complete the construction proposed, to meet the timeframe proposed and to operate the System as proposed. If an applicant is a joint venture or partnership, the same information shall be provided for each participant in the joint venture or partnership.

Pro forma financial projections for the proposed Franchise term, including a statement of projected income and a schedule of planned capital additions, with all significant assumptions explained in notes or supporting schedules.

A description of the applicant's prior experience in Cable System ownership, construction, and operation, and identification of each locality in which the applicant or any of its principals have, or have had, a cable Franchise or any interest therein, including the name, address, phone number and e-mail address of each local franchising authority and references from each authority.

A written description and detailed map of the exact area or areas of the City to be served by the proposed Cable System, including a description of the proposed Franchise Area's boundaries.

A detailed description of the physical facilities proposed to be provided within the City, which description shall include at least the following:

A description of the Channel capacity, technical design, performance characteristics, headend, Educational Channel and Governmental Access Channel facilities and equipment and Institutional Network facilities and equipment.

The location of the proposed System and System design, including a description of the miles of plant to be installed, and a description of the size of equipment cabinets, shielding and electronics that will be installed along the plant route, the power sources that will be used and a description of the noise, exhaust and pollutants, if any, that will be generated by the operation of the same.

A map of the route the Cable System will follow; a designation of the portions of the System that will be placed above-ground and portions that will be placed underground, and the construction techniques that the operator proposes to use in installing the System above-ground and underground; where applicable, a schedule for construction of the System, describing where and when construction will begin, how it will proceed, and when it will be completed; and the expected effect on Public Right-of-Way usage, including information on the ability of Public Rights-of-Way to accommodate the proposed System, an estimate of the availability of space in conduits, and an estimate of the cost of any necessary rearrangement of existing facilities.

A description, where appropriate, of how Cable Services will be converted from existing facilities to new facilities, and what will be done with existing facilities.

A demonstration of how the applicant will reasonably meet the future cable-related needs and interests of the community, including descriptions of how the applicant will meet the needs described in any recent community needs assessment conducted by or for the City, and how the applicant will provide adequate Educational, and Governmental Access Channel capacity, facilities, or financial support to meet the community's needs and interests.

Copies of any agreements which the applicant has entered into or proposes to enter into with any other Person relating to the proposed System.

If the applicant proposes to provide Cable Service to an area already served by an existing cable Franchisee, a written description and a detailed map of the area where the overbuild would occur and the ability of the Public Rights-of-Way and other property that would be used by the applicant to accommodate an additional System.

Any other information that may be reasonably necessary to demonstrate compliance with the requirements of the Ordinance.

Any additional information that the City may request of the applicant that is relevant to the City's consideration of the application.

An affidavit or declaration of the applicant or authorized officer certifying the truth and accuracy of the information in the application, acknowledging the enforceability of application commitments, and certifying that the application meets all federal and state law requirements.

A declaration that no Person not shown in the application has, or without the prior written consent of the City Council will have, any equity interest in the Franchise exceeding five (5) percent.

A declaration that the applicant agrees to comply with this Ordinance, and will abide by the City Council's decision to grant or deny a Franchise.

If the applicant was formed less than two years before the date of application, the information required shall be supplied for each party owning a controlling interest (however exercised) in the applicant.

APPLICATION FOR GRANT OF A RENEWAL FRANCHISE

The renewal of any Franchise to provide Cable Service shall be conducted in accordance with Section 626 of the Cable Act, 47 U.S.C. § 546.

APPLICATION FOR MODIFICATION OF A FRANCHISE

An application from a Franchisee for modification of a Franchise Agreement shall include, at minimum, the following information:

The specific modification requested;

The justification for the requested modification;

A statement whether the modification is sought pursuant to Section 625 of the Cable Act, 47 U.S.C. § 545, and, if so, a demonstration that the requested modification meets the standards set forth in 47 U.S.C. § 545;

Any other information that the applicant believes is necessary for the City to make an informed determination on the application for modification; and

An affidavit or declaration of the applicant or authorized officer certifying the truth and accuracy of the information in the application, and certifying that the application is consistent with the requirements of applicable law.

A request for a modification pursuant to 47 U.S.C. § 545 shall be considered in accordance with the requirements of that section.

Public Hearings. An applicant for an initial Franchise, or modification, renewal or extension of an existing Franchise (other than the renewal of any Franchise in effect as of the Effective Date of this Ordinance), shall be notified of any public hearings held in connection with the evaluation of its application and shall be given an opportunity to be heard. In addition, prior to the issuance of a Franchise, the City shall provide for the holding of a public hearing, following at least ten (10) days prior written notice to the public, at which every applicant and its application shall be examined and the public and all interested parties afforded a reasonable opportunity to be heard.

Acceptance of Franchise. Following approval by the City Council, any Franchise granted pursuant to this Ordinance, and the rights, privileges and authority granted by a Franchise

Agreement, shall take effect and be in force from and after the first date on which both the Franchisee and the City have accepted and signed the Franchise Agreement.

Competitive Cable Systems

Our community

- was approached by two cable overbuilder's several years ago who were considering competing with Comcast and providing video, voice, and data service, but the provider chose not to enter into any formal or informal discussions.
- does have mechanisms in place to offer the same or a comparable franchise to a competitor upon request.

Conclusions

The local cable franchising process functions well in the City of Murfreesboro Tennessee. As the above information indicates, we are experienced at working with cable providers to both see that the needs of the local community are met and to ensure that the practical business needs of cable providers are taken into account.

Local cable franchising ensures that local cable operators are allowed access to the rights of way in a fair and evenhanded manner, that other users of the rights of way are not unduly inconvenienced, and that uses of the rights of way, including maintenance and upgrade of facilities, are undertaken in a manner which is in accordance with local requirements. Local cable franchising also ensures that our local community's specific needs are met and that local customers are protected.

Local franchises thus provide a means for local government to appropriately oversee the operations of cable service providers in the public interest, and to ensure compliance with applicable laws. There is no need to create a new Federal bureaucracy in Washington to handle matters of specifically local interest.

Finally, local franchises allow each community, including ours, to have a voice in how local cable systems will be implemented and what features (such as PEG access, institutional networks or local emergency alerts, etc.) will be available to meet local needs. These factors are equally present for new entrants as for existing users.

The City of Murfreesboro Tennessee therefore respectfully requests that the Commission do nothing to interfere with local government authority over franchising or to otherwise impair the operation of the local franchising process as set forth under existing Federal law with regard to either existing cable service providers or new entrants.

Respectfully submitted,

A handwritten signature in black ink that reads "Alan Bozeman". The signature is fluid and cursive, with the first name "Alan" and last name "Bozeman" clearly distinguishable.

Alan Bozeman
City Cable Television Coordinator
City of Murfreesboro, TN
111 West Vine Street
Murfreesboro, TN 37130

cc: NATOA, info@natoa.org
John Norton, John.Norton@fcc.gov
Andrew Long, Andrew.Long@fcc.gov